

Executive Summary – Enforcement Matter – Case No. 50669

Town of Hickory Creek

RN105611545

Docket No. 2015-0889-WQ-E

Order Type:

1660 Agreed Order

Findings Order Justification:

N/A

Media:

WQ

Small Business:

No

Location(s) Where Violation(s) Occurred:

Town of Hickory Creek Municipal Separate Storm Sewer System ("MS4"), located within the Denton Lewisville urbanized area in Denton County

Type of Operation:

Municipal storm sewer system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 13, 2015

Comments Received: No

Penalty Information

Total Penalty Assessed: \$7,700

Amount Deferred for Expedited Settlement: \$1,540

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$0

Total Due to General Revenue: \$0

Payment Plan: N/A

Supplemental Environmental Project ("SEP") Conditional Offset: \$6,160

Name of SEP: City-Wide Collection Event (Custom)

Compliance History Classifications:

Person/CN - High

Site/RN - High

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: April 2014

Executive Summary – Enforcement Matter – Case No. 50669
Town of Hickory Creek
RN105611545
Docket No. 2015-0889-WQ-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: April 27, 2015

Date(s) of NOE(s): May 26, 2015

Violation Information

1. Failed to maintain authorization to discharge stormwater associated with a Small MS4 Texas Pollutant Discharge Elimination System ("TPDES") General Permit. Specifically, TPDES General Permit No. TXR040373 expired on August 13, 2012, and a Notice of Intent and revised Stormwater Management Program were not submitted by the June 11, 2014 application deadline [30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26(a)(9)(i)(A)].
2. Failed to submit a complete annual report for the reporting period ending June 11, 2014. Specifically, the annual report submitted on July 23, 2014, did not contain accurate descriptions of the procedures for construction site inspections of stormwater control measures and assessments of municipal properties for appropriate stormwater pollution prevention controls [30 TEX. ADMIN. CODE § 281.25(b)(5), 40 CFR § 122.34(g)(3) and TPDES General Permit No. TXR040000 Part IV. Section B.2].
3. Failed to maintain records of stormwater inspections and assessments, and make them readily available for review by a TCEQ representative upon request. Specifically, documentation of inspections of three construction sites that are listed in the annual report and assessments of municipal operation and maintenance activities, including identification of pollutants of concern, were not available for review during the investigation [30 TEX. ADMIN. CODE § 281.25(b)(5), 40 CFR § 122.34(g)(2), and TPDES General Permit No. TXR040000 Part III. Sections B.3(b)(5) and B.5(b)(5)a, b, c, and d].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

The Respondent has implemented the following correct measures:

- a. On February 9, 2015, obtained authorization to discharge stormwater under the Small MS4 TPDES General Permit No. TXR040566;
- b. On June 10, 2015, submitted documentation of inspections of current construction sites and assessments of municipal operation and maintenance activities, including identification of pollutants of concern; and

Executive Summary – Enforcement Matter – Case No. 50669

Town of Hickory Creek

RN105611545

Docket No. 2015-0889-WQ-E

c. On June 23, 2015, submitted the annual report for the reporting period ending June 11, 2014 that contained accurate descriptions of the procedures for construction site inspections of stormwater control measures and assessments of municipal properties for appropriate stormwater pollution prevention controls.

Technical Requirements:

The Order will require the Respondent to implement and complete a SEP (see SEP Attachment A).

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Jill Russell, Enforcement Division, Enforcement Team 3, MC 169, (512) 239-4564; Candy Garrett, Enforcement Division, MC 219, (512) 239-1456

TCEQ SEP Coordinator: Meaghan Bailey, SEP Coordinator, Litigation Division, MC 175, (512) 239-0205

Respondent: The Honorable Lynn Clark, Mayor, Town of Hickory Creek, 1075 Ronald Reagan Avenue, Hickory Creek, Texas 75065-7633

Respondent's Attorney: N/A

Attachment A
Docket Number: 2015-0889-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Town of Hickory Creek
Penalty Amount:	Six Thousand One Hundred Sixty Dollars (\$6,160)
SEP Offset Amount:	Six Thousand One Hundred Sixty Dollars (\$6,160)
Type of SEP:	Custom
Project Name:	<i>City-Wide Collection Event</i>
Location of SEP:	Denton County

The Texas Commission on Environmental Quality (“TCEQ”) agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project (“SEP”). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hold a one-day collection event for expired pharmaceuticals, electronics, tires, and household hazardous waste. Respondent shall purchase one MedReturn Drug Collection Unit to collect expired over-the-counter medications and prescription medications. The MedReturn Drug Collection Unit will be secured at the local law enforcement office, and the City will be responsible for all maintenance and proper disposal of collected pharmaceuticals. Respondent shall hire licensed contractors to collect, recycle and/or properly dispose of electronics, household hazardous waste, and tires at no cost for its citizens.

Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

The event will be advertised in at least one newspaper of large circulation in the geographic area to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, Publicity.

Respondent shall ensure that the collection event:

- advertised to the public
- occurs during daylight hours
- offers to the public a convenient drop-off location
- uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste, electronics, expired pharmaceuticals, and tires

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

The SEP will provide a discernible environmental benefit by providing proper and safe disposal of harmful chemicals that can leach into the soil, water, and air. The collection event is designed to help alleviate the threat to wildlife posed by improperly disposed pharmaceuticals, which can cause endocrine disruption and affect other biological processes.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Household Hazardous Waste	40	\$88	Cubic yards	\$3,520
Tires	40	\$3	Each	\$120
Electronics, other than CRTs	1	\$500	Each	\$500
Electronics, CRTs average	20	\$88	Each	\$1,760
MedReturn Drug Collection Unit	1	\$695	Each	\$695
Total				\$6,595

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table, below:

Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of advertisement of the collection event (**all advertisements must include the statement that “the SEP is being performed as a result of a TCEQ enforcement action”**);
4. A certified/notarized statement of quantifiable environmental benefit;

5. Detailed map showing specific locations of the collection site(s);
6. Dated photographs of the Project showing the collected materials;
7. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck;
8. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials; and
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Policy Revision 4 (April 2014)

Penalty Calculation Worksheet (PCW)

PCW Revision March 26, 2014

TCEQ

DATES	Assigned	26-May-2015	Screening	9-Jun-2015	EPA Due	
	PCW	24-Jul-2015				

RESPONDENT/FACILITY INFORMATION

Respondent	Town of Hickory Creek	
Reg. Ent. Ref. No.	RN105611545	
Facility/Site Region	4-Dallas/Fort Worth	Major/Minor Source Minor

CASE INFORMATION

Enf./Case ID No.	50669	No. of Violations	3
Docket No.	2015-0889-WQ-E	Order Type	1660
Media Program(s)	Water Quality	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Jill Russell
		EC's Team	Enforcement Team 3
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)	Subtotal 1	\$11,500
---	-------------------	-----------------

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History	-10.0% Enhancement	Subtotals 2, 3, & 7	-\$1,150
---------------------------	---------------------------	--------------------------------	-----------------

Notes	Reduction for high performer classification.
--------------	--

Culpability	No	0.0% Enhancement	Subtotal 4	\$0
--------------------	----	-------------------------	-------------------	------------

Notes	The Respondent does not meet the culpability criteria.
--------------	--

Good Faith Effort to Comply Total Adjustments	Subtotal 5	-\$2,650
--	-------------------	-----------------

Economic Benefit	0.0% Enhancement*	Subtotal 6	\$0
-------------------------	--------------------------	-------------------	------------

Total EB Amounts	\$75	*Capped at the Total EB \$ Amount
Estimated Cost of Compliance	\$3,050	

SUM OF SUBTOTALS 1-7	Final Subtotal	\$7,700
-----------------------------	-----------------------	----------------

OTHER FACTORS AS JUSTICE MAY REQUIRE	0.0%	Adjustment	\$0
---	-------------	-------------------	------------

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes	
--------------	--

Final Penalty Amount	\$7,700
-----------------------------	----------------

STATUTORY LIMIT ADJUSTMENT	Final Assessed Penalty	\$7,700
-----------------------------------	-------------------------------	----------------

DEFERRAL	20.0% Reduction	Adjustment	-\$1,540
-----------------	------------------------	-------------------	-----------------

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes	Deferral offered for expedited settlement.
--------------	--

PAYABLE PENALTY	\$6,160
------------------------	----------------

Screening Date 9-Jun-2015

Docket No. 2015-0889-WQ-E

PCW

Respondent Town of Hickory Creek

Policy Revision 4 (April 2014)

Case ID No. 50669

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105611545

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	0	0%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgments or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 0%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

High Performer

Adjustment Percentage (Subtotal 7) -10%

>> Compliance History Summary

Compliance
History
Notes

Reduction for high performer classification.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) -10%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% -10%

Screening Date 9-Jun-2015

Docket No. 2015-0889-WQ-E

PCW

Respondent Town of Hickory Creek

Policy Revision 4 (April 2014)

Case ID No. 50669

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105611545

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 281.25(a)(4) and 40 Code of Federal Regulations ("CFR") § 122.26(a)(9)(i)(A)

Violation Description Failed to maintain authorization to discharge stormwater associated with a Small Municipal Separate Storm Sewer System ("MS4") Texas Pollutant Discharge Elimination System ("TPDES") General Permit, as documented during an investigation conducted on April 27, 2015. Specifically, TPDES General Permit No. TXR040373 expired on August 13, 2012, and a Notice of Intent ("NOI") and revised Stormwater Management Program ("SWMP") were not submitted by the June 11, 2014 application deadline.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

	Falsification	Major	Moderate	Minor
		X		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 8

243 Number of violation days

mark only one with an x

daily	
weekly	
monthly	X
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$10,000

Eight monthly events are recommended from the June 11, 2014 application deadline to the February 9, 2015 compliance date.

Good Faith Efforts to Comply

25.0%

Reduction \$2,500

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent returned to compliance by February 9, 2015.

Violation Subtotal \$7,500

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$67

Violation Final Penalty Total \$6,500

This violation Final Assessed Penalty (adjusted for limits) \$6,500

Economic Benefit Worksheet

Respondent Town of Hickory Creek
Case ID No. 50669
Reg. Ent. Reference No. RN105611545
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$2,000	11-Jun-2014	9-Feb-2015	0.67	\$67	n/a	\$67

Notes for DELAYED costs

Estimated cost to prepare and submit a SWMP and a NOI to obtain authorization to discharge stormwater. Date required is the application deadline date and final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$67

Screening Date 9-Jun-2015

Docket No. 2015-0889-WQ-E

PCW

Respondent Town of Hickory Creek

Policy Revision 4 (April 2014)

Case ID No. 50669

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105611545

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code § 281.25(b)(5), 40 CFR § 122.34(g)(3), and TPDES General Permit No. TXR040000 Part IV. Section B.2

Violation Description

Failed to submit a complete annual report for the reporting period ending June 11, 2014, as documented during an investigation conducted on April 27, 2015. Specifically, the annual report submitted on July 23, 2014, did not contain accurate descriptions of the procedures for construction site inspections of stormwater control measures and assessments of municipal properties for appropriate stormwater pollution prevention controls.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
			X

Percent 1.0%

Matrix Notes

At least 70% of the rule requirements were met.

Adjustment \$24,750

\$250

Violation Events

Number of Violation Events 1

273 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$250

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$25

	Before NOE/NOV	NOE/NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent returned to compliance by June 23, 2015.

Violation Subtotal \$225

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$2

Violation Final Penalty Total \$200

This violation Final Assessed Penalty (adjusted for limits) \$200

Economic Benefit Worksheet

Respondent Town of Hickory Creek
Case ID No. 50669
Reg. Ent. Reference No. RN105611545
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)	\$50	9-Sep-2014	23-Jun-2015	0.79	\$2	n/a	\$2

Notes for DELAYED costs

Estimated cost to submit a complete annual report (\$50). Date required is the date the annual report was due. Final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$50

TOTAL

\$2

Screening Date 9-Jun-2015

Docket No. 2015-0889-WQ-E

PCW

Respondent Town of Hickory Creek

Policy Revision 4 (April 2014)

Case ID No. 50669

PCW Revision March 26, 2014

Reg. Ent. Reference No. RN105611545

Media [Statute] Water Quality

Enf. Coordinator Jill Russell

Violation Number 3

Rule Cite(s)

30 Tex. Admin. Code § 281.25(b)(5), 40 CFR § 122.34(g)(2), and TPDES General Permit No. TXR040000 Part III. Sections B.3(b)(5) and B.5(b)(5)a, b, c, and d

Violation Description

Failed to maintain records of stormwater inspections and assessments, and make them readily available for review by a TCEQ representative upon request, as documented during an investigation conducted on April 27, 2015. Specifically, documentation of inspections of three construction sites listed in the annual report and assessments of municipal operation and maintenance activities, including identification of pollutants of concern, were not available for review during the investigation.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential			

Percent 0.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	X		

Percent 5.0%

Matrix Notes

100% of the rule requirements were not met.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

43 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	X

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

10.0%

Reduction \$125

Before NOE/NOV NOE/NOV to EDRP/Settlement Offer

Extraordinary		
Ordinary		X
N/A		(mark with x)

Notes

The Respondent returned to compliance by June 10, 2015.

Violation Subtotal \$1,125

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$6

Violation Final Penalty Total \$1,000

This violation Final Assessed Penalty (adjusted for limits) \$1,000

Economic Benefit Worksheet

Respondent Town of Hickory Creek
Case ID No. 50669
Reg. Ent. Reference No. RN105611545
Media Water Quality
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/Construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System	\$1,000	27-Apr-2015	10-Jun-2015	0.12	\$6	n/a	\$6
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to maintain records of construction site inspections and assessments of municipal operation and maintenance activities. Date required is the investigation date. Final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/Equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$1,000

TOTAL

\$6

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PUBLISHED Compliance History Report for CN601535081, RN105611545, Rating Year 2014 which includes Compliance History (CH) components from September 1, 2009, through August 31, 2014.

Customer, Respondent, or Owner/Operator: CN601535081, Town of Hickory Creek **Classification:** HIGH **Rating:** 0.00

Regulated Entity: RN105611545, TOWN OF HICKORY CREEK MS4 **Classification:** HIGH **Rating:** 0.00

Complexity Points: 5 **Repeat Violator:** NO

CH Group: 14 - Other

Location: WITHIN THE TOWN OF HICKORY CREEK LIMITS THAT IS LOCATED WITHIN THE DENTON LEWISVILLE URBANIZED AREA IN DENTON COUNTY, TEXAS

TCEQ Region: REGION 04 - DFW METROPLEX

ID Number(s):
STORMWATER PERMIT TXR040566

Compliance History Period: September 01, 2009 to August 31, 2014 **Rating Year:** 2014 **Rating Date:** 09/01/2014

Date Compliance History Report Prepared: May 28, 2015

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: May 28, 2010 to May 28, 2015

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Jill Russell

Phone: (512) 239-4564

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If **YES** for #2, who is the current owner/operator? N/A
- 4) If **YES** for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:
N/A

B. Criminal convictions:
N/A

C. Chronic excessive emissions events:
N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):
N/A

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

N/A

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TOWN OF HICKORY CREEK
RN105611545**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2015-0889-WQ-E

I. JURISDICTION AND STIPULATIONS

On _____, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding the Town of Hickory Creek ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent together stipulate that:

1. The Respondent owns and operates a municipal storm sewer system in the area within the Town of Hickory Creek limits that is located within the Denton Lewisville urbanized area in Denton County, Texas (the "Facility").
2. The Facility adjoins, is contiguous with, surrounds, or is near or adjacent to water in the state as defined in TEX. WATER CODE § 26.001(5).
3. The Executive Director and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about May 31, 2015.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Seven Hundred Dollars (\$7,700) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). One Thousand Five Hundred Forty Dollars (\$1,540) is deferred

- contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require the Respondent to pay all or part of the deferred penalty. Six Thousand One Hundred Sixty Dollars (\$6,160) shall be conditionally offset by the Respondent's completion of a Supplemental Environmental Project ("SEP").
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
 8. The Executive Director and the Respondent agree on a settlement of the matters alleged in this enforcement action, subject to final approval in accordance with 30 TEX. ADMIN. CODE § 70.10(a).
 9. The Executive Director recognizes that the Respondent has implemented the following corrective measures:
 - a. On February 9, 2015, obtained authorization to discharge stormwater under the Small Municipal Separate Storm Sewer System ("MS4") Texas Pollutant Discharge Elimination System ("TPDES") General Permit No. TXRo40566;
 - b. On June 10, 2015, submitted documentation of inspections of current construction sites and assessments of municipal operation and maintenance activities, including identification of pollutants of concern; and
 - c. On June 23, 2015, submitted the annual report for the reporting period ending June 11, 2014 that contained accurate descriptions of the procedures for construction site inspections of stormwater control measures and assessments of municipal properties for appropriate stormwater pollution prevention controls.
 10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
 11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
 12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to maintain authorization to discharge stormwater associated with a Small MS4 TPDES General Permit, in violation of 30 TEX. ADMIN. CODE § 281.25(a)(4) and 40 CODE OF FEDERAL REGULATIONS ("CFR") § 122.26(a)(9)(i)(A), as documented during an investigation conducted on April 27, 2015. Specifically, TPDES General Permit No. TXRo40373 expired on August 13, 2012, and a Notice of Intent and revised Stormwater Management Program were not submitted by the June 11, 2014 application deadline.
2. Failed to submit a complete annual report for the reporting period ending June 11, 2014, in violation of 30 TEX. ADMIN. CODE § 281.25(b)(5), 40 CFR § 122.34(g)(3), and TPDES General Permit No. TXRo40000 Part IV. Section B.2, as documented during an investigation conducted on April 27, 2015. Specifically, the annual report submitted on July 23, 2014, did not contain accurate descriptions of the procedures for construction site inspections of stormwater control measures and assessments of municipal properties for appropriate stormwater pollution prevention controls.
3. Failed to maintain records of stormwater inspections and assessments, and make them readily available for review by a TCEQ representative upon request, in violation of 30 TEX. ADMIN. CODE § 281.25(b)(5), 40 CFR § 122.34(g)(2), and TPDES General Permit No. TXRo40000 Part III. Sections B.3(b)(5) and B.5(b)(5)a, b, c, and d, as documented during an investigation conducted on April 27, 2015. Specifically, documentation of inspections of three construction sites that are listed in the annual report and assessments of municipal operation and maintenance activities, including identification of pollutants of concern, were not available for review during the investigation.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Town of Hickory Creek, Docket No. 2015-0889-WQ-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Six Thousand One Hundred Sixty Dollars (\$6,160) of the assessed administrative penalty shall be offset with the condition that the SEP defined in Attachment A, incorporated herein by reference, is implemented by the Respondent. The Respondent's obligation to pay the conditionally offset portion of the assessed administrative penalty shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
5. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
6. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
7. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and

accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.

8. The effective date of this Order is the date it is signed by the Commission. A copy of this fully executed Order shall be provided to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Date

Pamela Marie J
For the Executive Director

1/22/16
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions;
- and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Lynn C. Clark
Signature

9/25/2015
Date

LYNN C. CLARK
Name (Printed or typed)
Authorized Representative of
Town of Hickory Creek

MAYOR
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2015-0889-WQ-E
SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent:	Town of Hickory Creek
Penalty Amount:	Six Thousand One Hundred Sixty Dollars (\$6,160)
SEP Offset Amount:	Six Thousand One Hundred Sixty Dollars (\$6,160)
Type of SEP:	Custom
Project Name:	<i>City-Wide Collection Event</i>
Location of SEP:	Denton County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset the administrative Penalty Amount assessed in this Agreed Order for Respondent to perform a Supplemental Environmental Project ("SEP"). The SEP Offset Amount is set forth above and such offset is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

Respondent shall hold a one-day collection event for expired pharmaceuticals, electronics, tires, and household hazardous waste. Respondent shall purchase one MedReturn Drug Collection Unit to collect expired over-the-counter medications and prescription medications. The MedReturn Drug Collection Unit will be secured at the local law enforcement office, and the City will be responsible for all maintenance and proper disposal of collected pharmaceuticals. Respondent shall hire licensed contractors to collect, recycle and/or properly dispose of electronics, household hazardous waste, and tires at no cost for its citizens.

Any advertisement, including publication, related to the SEP must include the enforcement statement as stated in Section 6, Publicity. The SEP will be performed in accordance with all federal, state, and local environmental laws and regulations.

The event will be advertised in at least one newspaper of large circulation in the geographic area to increase public awareness of and participation in the event and will include the required enforcement statement described in Section 6, Publicity.

Respondent shall ensure that the collection event:

- advertised to the public
- occurs during daylight hours
- offers to the public a convenient drop-off location
- uses personnel or licensed contractors knowledgeable about appropriate methods for the collection, storage, and disposal of potentially hazardous waste, electronics, expired pharmaceuticals, and tires

Respondent shall use the SEP Offset Amount only for the direct cost of implementing the Project, including supplies, materials, and equipment rentals, as listed in Subsection C. Minimum Expenditure, Estimated Cost Schedule. No portion of the SEP Offset Amount shall be spent on administrative costs, including but not limited to operating costs, reporting expenses, handling of expenses, project coordination, liability, or equipment breakdowns.

Respondent's signature affixed to the attached Agreed Order certifies that Respondent has no prior commitment to perform this Project and that the SEP is being performed solely as part of the terms of settlement in this enforcement action.

B. Environmental Benefit

The SEP will provide a discernible environmental benefit by providing proper and safe disposal of harmful chemicals that can leach into the soil, water, and air. The collection event is designed to help alleviate the threat to wildlife posed by improperly disposed pharmaceuticals, which can cause endocrine disruption and affect other biological processes.

C. Minimum Expenditure

Respondent shall spend at least the SEP Offset Amount to complete the project described in Section 1, above, and comply with all other provisions of this SEP. Respondent understands that it may cost more than the SEP Offset Amount to complete the Project.

Estimated Cost Schedule

Item	Quantity	Cost	Units	Total
Household Hazardous Waste	40	\$88	Cubic yards	\$3,520
Tires	40	\$3	Each	\$120
Electronics, other than CRTs	1	\$500	Each	\$500
Electronics, CRTs average	20	\$88	Each	\$1,760
MedReturn Drug Collection Unit	1	\$695	Each	\$695
Total				\$6,595

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, Respondent shall begin implementation of the SEP. Respondent shall have completed the SEP in its entirety within 365 days after the effective date of this Agreed Order.

3. Records and Reporting

A. Progress Report

Within 30 days after the effective date of this Agreed Order, Respondent shall submit a Notice of Commencement to the TCEQ describing actions performed to date to implement the Project. Within 90 days of the effective date of this Agreed Order, Respondent shall submit a report detailing the progress made and all actions completed on the Project during the previous 60-day period and setting forth a schedule for achieving completion of the Project within the 365-day timeframe set forth in Section 2, Performance Schedule, above. Thereafter, Respondent shall submit progress reports to the TCEQ in 90-day increments containing detailed information on all actions completed on the Project to date as set forth in the Reporting Schedule table, below:

Reporting Schedule

Days from Effective Order Date	Information Required
30	Notice of Commencement describing actions taken to begin project
90	Actions completed during previous 60-day period
180	Actions completed during previous 90-day period
270	Actions completed during previous 90-day period
365	Notice of SEP completion

B. Final Report

Within 365 days after the effective date of the Agreed Order, or within 60 days after completion of SEP, whichever is earlier, Respondent shall submit a Final Report to the TCEQ, which shall include the following:

1. Itemized list of expenditures and total cost of the Project;
2. Copies of invoices, paid receipts, cleared checks or payment records corresponding to the itemized list in paragraph 3.B.1., above;
3. Copies of proof of advertisement of the collection event (**all advertisements must include the statement that “the SEP is being performed as a result of a TCEQ enforcement action”**);
4. A certified/notarized statement of quantifiable environmental benefit;

5. Detailed map showing specific locations of the collection site(s);
6. Dated photographs of the Project showing the collected materials;
7. A count on the type of items collected, i.e. number of televisions, number of tires (by type, such as passenger, truck;
8. Manifest sufficient to show proof of proper disposal and/or recycling of the collected materials; and
9. Any additional information Respondent believes will, or that is requested by TCEQ to demonstrate compliance with this Attachment A.;

C. Address

Respondent shall submit all SEP reports and any additional information as requested to the following address:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

4. Additional Information and Access

Respondent shall provide additional information as requested by TCEQ staff, and shall allow access to all records related to the SEP Offset Amount. Respondent shall also allow representatives of the TCEQ access to the site of any work being financed in whole or in part by the SEP Offset Amount. This provision shall survive the termination of this Agreed Order.

5. Failure to Fully Perform

If Respondent does not perform its obligations under this Attachment A, including full expenditure of the SEP Offset Amount and submittal of the required reporting described in Sections 2 through 4 above, the Executive Director ("ED") may require immediate payment of all or part of the SEP Offset Amount as set forth in the attached Agreed Order.

In the event the ED determines that Respondent failed to fully implement and complete the Project, Respondent shall remit payment for all or a portion of the SEP Offset Amount, as determined by the ED, and as set forth in the attached Agreed Order. After receiving notice of failure to complete the SEP, Respondent shall include the docket number of the attached Agreed Order and a note that the enclosed payment is for reimbursement of a SEP, shall make the check payable to "Texas Commission on Environmental Quality," and shall mail it to:

Texas Commission on Environmental Quality
Litigation Division
Attention: SEP Coordinator, MC 175
P.O. Box 13087
Austin, Texas 78711-3087

6. Publicity

Any public statements concerning this Project made by or on behalf of Respondent must include a clear statement that **the Project was performed as part of the settlement of an enforcement action brought by the TCEQ**. Such statements include advertising, public relations, and press releases.

7. Recognition

Respondent may not seek recognition for this project in any other state or federal regulatory program.

8. Other SEPs by TCEQ or Other Agencies

The SEP Offset Amount identified in this Attachment A and in the attached Agreed Order has not been, and shall not be, included as a SEP for Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.